

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 28**

**AMERICAN RED CROSS, ARIZONA REGION<sup>1</sup>**

**Employer**

**and**

**Case 28-RC-6452**

**GENERAL TEAMSTERS  
(EXCLUDING MAILERS), STATE OF  
ARIZONA, LOCAL UNION NO. 104,  
AN AFFILIATE OF THE INTERNATIONAL  
BROTHERHOOD OF TEAMSTERS<sup>2</sup>**

**Petitioner**

**DECISION AND DIRECTION OF ELECTION**

General Teamsters (Excluding Mailers), State of Arizona, Local Union No. 104, an affiliate of the International Brotherhood of Teamsters (Petitioner), seeks an election in a unit generally comprised of all employees who perform blood-drawing services for the American Red Cross, Arizona Region (Employer). This unit would include approximately 88 full-time and regular part-time employees, and consist of the following job classifications: Donor Services Technician II; Donor Services Specialist I; Mobile Unit Assistant I; Mobile Unit Assistant II; Nursing Assistant; Collections Assistant; and Electronic Blood Record Specialist (EBDR Specialist). Additionally, the Petitioner seeks to represent the Employer's four Therapeutic Apheresis Registered Nurses who, the parties agree, are professional employees within the meaning of the Act. Contrary to the Petitioner, the Employer urges that the only appropriate unit is a wall-to-wall unit, and would include the following additional classifications: Donor Recruitment Representative; Customer Service Representative; Tele-recruiter; Appointment Scheduler/Receptionist; Volunteer Coordinator; Hospital Services Technician I and II; Hospital Services Courier; Inventory and Billing Specialist; General Services Assistant; Procurement Specialist; Compliance Specialist I and II; Reference Laboratory Technologist and Technologist II; and Technical Assistant I, II, and III. The Employer's proposed unit would consist of approximately 170 employees.

Based upon the reasons more fully set forth below, I find that the unit sought by the Petitioner is appropriate, with the exception of the EBDR Specialist, who does not share a sufficient community of interest with a unit of employees who perform blood-drawing services. I also find, in agreement with the parties, that the Therapeutic Apheresis RNs are

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<sup>1</sup> The name of the Employer appears as corrected at the hearing.

<sup>2</sup> The name of the Petitioner appears as corrected at the hearing.

professional employees who should be given first an opportunity to vote to be included in the overall unit and whether they wish to be represented by the Petitioner. See *Sonotone Corp.*, 90 NLRB 1236 (1950).

## DECISION

Under Section 3(b) of the Act, I have the authority to hear and decide this matter on behalf of the National Labor Relations Board. Upon the entire record in this proceeding, I find:

**1. Hearing and Procedures:** The hearing officer's rulings made at the hearing are free from prejudicial error and are affirmed.

**2. Jurisdiction:** At the hearing, the parties stipulated, and I find, that the Employer, American Red Cross, Arizona Region, with facilities located at 222 South Cherry, Tucson, Arizona, is a unit of the American Red Cross, a federally-chartered non-profit corporation headquartered in Washington, D.C., and is a non-acute health care institution engaged in the collection, processing, and distribution of blood and blood products. During the 12-month period preceding this hearing, the Employer has derived gross revenues in excess of \$250,000 and has purchased and received at its Tucson, Arizona facility goods valued in excess of \$50,000 directly from suppliers located outside the State of Arizona. Accordingly, I find that the Employer is engaged in commerce within the meaning of the Act, and, therefore, the Board's asserting jurisdiction in this matter will accomplish the purposes of the Act.

**3. Labor Organization Status and Claim of Representation:** The Petitioner is a labor organization within the meaning of Section 2(5) of the Act and claims to represent certain employees of the Employer.

**4. Statutory Question:** As more fully set forth below, a question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of the Section 9(c)(1) and Section 2(6) and (7) of the Act.

**5. Unit Finding:** There are two primary issues in this proceeding. First, I must determine whether the petitioned-for unit is an appropriate unit, or whether the only appropriate unit is, as proposed by the Employer, a wall-to-wall unit, excluding managers, supervisors, confidential employees, and guards. Second, I must decide whether the Therapeutic Apheresis Registered Nurses are professional employees within the meaning of the Act and thus should have the opportunity to choose whether they wish to be included in a separate professional unit or a unit with nonprofessionals, if they select to be represented by the Petitioner.

For reasons discussed below, I find that the unit sought by the Petitioner, consisting of employees who perform blood drawing services for the Employer, is an appropriate unit, with the exception of the EBDR Specialists, who do not share a sufficient community of interest with the employees in the unit found appropriate. I further find that the Therapeutic Apheresis Registered Nurses are professional employees within the meaning of the Act and that they should be afforded the opportunity to choose if they desire a separate professional

unit or to be included in a unit with nonprofessionals, if they select to be represented by the Petitioner.

To provide a context for my decision, I will first provide an overview of the Employer's operations, followed by a description of the positions in dispute, and their respective working conditions. I will then present the case law and the reasoning that support my conclusions on these issues.

## **A. The Employer's Operations and Organizational Structure**

### **1. The Employer's Facilities**

The Employer is the Arizona unit of the American Red Cross. It collects blood and blood products from volunteer donors, tests and processes these items, and distributes these items to end users, generally hospitals and clinics. The Employer also provides apheresis services, which is the process by which a machine is used to draw blood from donors, separate the blood into its different components, harvest wanted portions, and return the remaining portions of the blood into the donor.

The record reveals that the Employer has two operational centers, located at 222 South Cherry, Tucson, Arizona (the Cherry facility), and 3321 East Atlanta, Phoenix, Arizona (the Phoenix facility). These centers serve as the staging area in preparation for mobile blood drives and possess blood storage and laboratory facilities. These facilities also contain offices for the Employer's managers and various other staff. The Cherry facility serves as the Employer's main headquarters, and is the base of operations for a majority of the Employer's employees. The Employer also maintains other facilities, including a house at 1509 East 12<sup>th</sup> Street, Tucson, Arizona, close to the Cherry facility, used by the Employer's Hospital Services and General Services departments, and warehouse facilities in Tucson and Phoenix.

### **2. The Employer's Blood Products Collections Operations**

The Employer collects blood and blood products in two ways. First, it collects blood at locations where it maintains a constant presence, known as fixed sites. It maintains three fixed sites: the Foothills Mall location and the Broadway Road location in Tucson, Arizona, and the Via Linda Drive location in Scottsdale, Arizona. Donors who wish to donate blood may either schedule appointments at these sites or simply walk in. The Broadway Road site also houses the Employer's apheresis management and staff, and serves as the Employer's main apheresis location. The Foothills Mall site may also perform some apheresis operations. The Via Linda Drive site, which is open only two days per week, does not have any apheresis operations. Second, the Employer collects blood through a fleet of mobile collection vehicles, which are scheduled to visit remote sites to collect blood and blood products. Between 4 and 11 blood drives may be conducted each day using these mobile collection vehicles.

### **3. The Employer's Managerial Hierarchy and Departments**

The Employer's chief executive officer, Nancy Mowry, is responsible for the Employer's overall operations, although, as noted below, several department managers report directly to various officials of the Western Regional Office of the American Red Cross, located in Pomona, California. The Employer's operations are divided into the following departments or operating units: Donor Services; Apheresis; Hospital Services; General Services; Compliance; and Laboratory. Each of these departments has its own department head and separate lines of supervision. Team supervisors and team leaders, sometimes formerly referred to as charges or charge nurses, report to the department managers and assistant managers and are responsible for the day-to-day supervision of employees.

The Donor Services Department is responsible for scheduling and conducting whole blood collections at the fixed and mobile sites. This department is also responsible for recruiting blood donors and for recruiting volunteers to assist during blood drives. The Donor Services Department is overseen by the Senior Director of Donor Services, Mari Anne Timm, who reports directly to Mowry.

The Apheresis Department is responsible for automated apheresis collections. As noted above, apheresis collections occur only at the Employer's fixed collection sites. The Employer's Medical Director, Dr. Yvette Miller, is in charge of this department. She is also responsible for the oversight of all of the Employer's medical operations, including ultimate decision-making authority with regard to donor eligibility, stem cell collections, review of antibody samples, and apheresis operations. Miller reports directly to Mowry.

The Hospital Services Department, located in the Employer's Cherry facility, is responsible for maintaining blood inventory, taking and filling hospital orders for blood products, transferring platelets between client hospitals to avoid product expiration, and collecting blood products from fixed sites and, at times, from mobile units (called "C-Runs"). The Assistant Manager of Hospital Services, Richard Garcia, is in charge of this department. Garcia also reports directly to Mowry.

The General Services Department is charged with receiving and distributing supplies used in the process of collecting whole blood and with the manufacturing of products from the collected blood. It is also responsible for performing minor repairs to the Employer's facilities and fleet, such as the replacing light bulbs. The General Services Manager, Andres Galaz, oversees this department. Galaz does not report to Mowry. Rather, he reports directly to Senior Director of General Services Joanne Jentine in the Western Regional Office.

The Compliance Department, which is based in the Employer's Cherry facility, is responsible for managing, retaining, and archiving all of the records generated in connection with the collection of blood. It is overseen by the Compliance Department Supervisor, Mary Pace, who reports directly to Western Division Director of Operations Andre Robinson in the Western Regional Office.

The Laboratory Department, which is located at the Cherry facility, adjacent to the Hospital Services Department, is responsible for manufacturing blood products. This involves taking the collected whole blood and turning it into its component parts, such as red blood cells, plasma, and platelets. This department is also responsible for testing and labeling these products before they are provided to hospitals and clinics. It is overseen by the Laboratory Director, Marian Stewart, who reports directly to Chief Manufacturing Officer Kay Crull in the Western Regional Office.

## **B. Classification Descriptions**

The Petitioner seeks a unit including all employees directly involved in the drawing of blood from donors, together with the EBDR Specialist. The Employer, on the other hand, contends that the only appropriate unit consists of all employees, excluding managers, supervisors, confidential employees, and guards. The following is a description of the classifications in issue, by department.

### **1. Donor Services Department**

**Donor Services Technician II.** Donor Services Technician IIs are phlebotomists trained in taking donor histories, drawing blood, and all other aspects of the blood collection process. While they are required to complete a 12-week Red Cross phlebotomy training course, they are not required to hold any other certifications or have any specialized education or training beyond high school or a GED. The Employer employs approximately 44 Donor Services Technician IIs in Tucson and Phoenix.

**Donor Services Specialist I.** Also sometimes referred to as “licensed staff,” Donor Services Specialist Is are licensed nurses who perform precisely the same function as Donor Services Technician IIs. Donor Services Specialist Is must complete the same 12-week Red Cross phlebotomy training course, wear the same attire, and use the same tools as the Donor Services Technician IIs, although they are paid at a higher rate. The Employer employs approximately 11 Donor Services Specialist Is.

**Mobile Unit Assistant I.** Mobile Unit Assistant Is (MUA Is) are responsible for loading the mobile blood drive vehicles, which occurs at one of the Employer’s operational centers before other collections employees arrive. If the MUA I possesses a commercial drivers license, the MUA I will drive the vehicle, which may carry some or all of the blood drive staff, to the remote blood drive site. MUA Is further assist unloading the vehicle if the drive is not held in a self-contained bus. During the blood drive, MUA Is assist the collections employees who are drawing blood by removing needles from blood bags, heat sealing blood bags, and preparing the bags for transfer to the operations center. MUA Is wear the same smock or lab coat and rubber gloves, and are required to complete the same 12-week Red Cross phlebotomy course, as the other collections employees. The Employer employs approximately four MUI Is.

**Mobile Unit Assistant II.** Mobile Unit Assistant IIs (MUA IIs) perform the same work as MUA Is. Additionally, MUA IIs are trained to remove needles from a donor’s arm at

the end of the donation process, a process referred to as a “take down.” The record indicates that all of the Employer’s current MUA IIs are trained to conduct phlebotomies and are, therefore, referred to as MUA IIs/Technician IIs. There are approximately five such employees.

**Nursing Assistant:** Nursing Assistants are responsible for donor registrations during the blood drives. They assist in the collections process by sealing blood bags, using the same skills and equipment as the MUA Is. Nursing assistants wear the same lab coats or smocks and rubber gloves as the rest of the collections employees. The Employer employs approximately four Nursing Assistants.

**Electronic Blood Record Specialist.** The EBDR Specialists work at out of the Employer’s facilities in Tucson and Phoenix. They are responsible for maintaining all of the computers used in the facilities and at mobile blood drives. Their work includes the installation of new software, installing updates to current software, and ensuring changes mandated by the Red Cross are implemented. The EBDR Specialists occasionally go to mobile blood sites to troubleshoot computer problems, but do not participate in the collection of blood at either mobile or fixed sites. This position requires a high school diploma or GED and a specialized knowledge of computers. The Employer employs two EBDR Specialists.

**Appointment Scheduler/Receptionist.** The Appointment Scheduler/Receptionists are responsible for scheduling and staffing blood drives. They receive requests to conduct a blood drive and determine whether the Employer has sufficient staff to cover it. This requires them to interact with collections employees to ascertain their availability. For this reason, employees involved in the blood collection process are required to check with a scheduler before requesting vacation or other leave, and must contact a scheduler if they will be absent due to illness. Schedulers are also responsible for finding replacements for absent employees. Schedulers do not attend blood drives and perform most of their work over the telephone. The Employer employs approximately two Appointment Schedulers and one Appointment Scheduler/Receptionist.

**Donor Recruitment Representative.** Donor Recruitment Representatives serve as a liaison between the Employer and donor groups and are responsible for ensuring that daily, weekly and monthly collections goals are met. They plan blood drives, develop leads for blood collections, and meet with donor groups. From time to time they will attend blood drives, where they will perform public relations work, assist the on-site Volunteer Blood Drive Coordinator with donor crowd control, and help register donors so that the collections staff can collect blood. Donor Recruitment Representatives may, at their discretion, leave the blood drive at any time. They do not participate in blood collection. The Employer requires Donor Recruitment Representatives to hold a bachelor’s degree in marketing. The Employer employs approximately eight Donor Recruitment Representatives.

**Customer Service Representative.** Customer Service Representatives support the Donor Recruitment Representatives by assisting with correspondence and other communications, printing posters, and other administrative work. They do not participate in the blood collection process. The Employer employs two Customer Service Representatives.

**Tele-recruiter.** Tele-recruiters work in the Employer's operations offices. Their sole function is to place telephone calls to potential donors from lists provided by the Employer. Tele-recruiters do not go to the blood drives, nor do they collect blood. The Employer employs the full-time equivalent of eight and one-half Tele-recruiters.

**Volunteer Coordinator.** The Volunteer Coordinator is responsible for developing and implementing methods to recruit and retain volunteers to assist during collections operations. The Volunteer Coordinator communicates with volunteers, arranges for training, and implements programs so that they receive recognition for their services. At times the Volunteer Coordinator will attend blood drives to train volunteers. The Volunteer Coordinator does not appear on the collections staff schedule for any blood drive.<sup>3</sup>

**Administrative Assistant.** The Employer employs four administrative assistants, three of whom perform routine clerical functions in support of the Donor Recruitment staff. The fourth administrative assistant works for Timm, and prepares budget and staffing reports, correspondence, and spreadsheets. All of these employees have some interaction with collections staff managers and supervisors, but not other collections employees. On occasion, Administrative Assistants may deliver supplies to a blood drive.<sup>4</sup>

## **2. Apheresis Department**

**Therapeutic Apheresis RN/LPN.** Therapeutic Apheresis RN/LPNs are the only employees who may perform therapeutic apheresis, which can only be performed at a hospital. When a patient has a disease requiring therapeutic apheresis, the patient's doctor will contact Medical Director Miller who, in turn, will discuss with the Therapeutic Apheresis RN/LPN the specific course of treatment. The Therapeutic Apheresis RN/LPN will then treat the patient. This position requires a license by the State of Arizona. The Employer employs four Therapeutic Apheresis RN/LPNs.

**Apheresis Donor Specialist.** The record reveals that the Employer does not distinguish between the Apheresis Donor Specialist I and II classifications. Employees in these classifications are viewed simply as collections staff, identical to Donor Services Specialist Is and operate the apheresis devices. They wear the same lab coats or smocks and rubber gloves as the other collections employees. The Employer employs approximately eight or nine Apheresis Donor Specialists.

**Apheresis RN/LPN.** The Employer's Apheresis RN/LPNs perform the same routine phlebotomy tasks as the Apheresis Donor Specialists. At the hearing, the parties stipulated, and I find, that although these employees may possess professional nursing degrees, they are not required to possess these degrees nor do they use their advanced skills and training in the

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<sup>3</sup> Contrary to the parties' stipulation at the hearing, the Petitioner in its post-hearing brief disclaims any interest in representing the Volunteer Coordinator.

<sup>4</sup> The Employer in its post-hearing brief does not seek to include the Administrative Assistants in its proposed wall-to-wall unit.

performance of their job duties. The Employer employs approximately four or five Apheresis RN/LPNs.

**Collections Assistant.** The Collections Assistants assist the collections staff in the blood collection process. After platelets are extracted from the donor, a Collections Assistant weighs and packages the blood bags for transfer to the Cherry facility. The Employer employs two Collection Assistants.

Additionally, the Apheresis Department has two of its own Donor Recruitment Representatives, one Scheduler, and two Tele-recruiters, whose functions are the same as those in the Donor Services Department.

### **3. Hospital Services Department**

**Hospital Services Technician I.** The Hospital Services Technician Is assist the Employer's customers, specifically, hospitals and clinics. In particular, they help customers order blood products, maintain inventory, and return blood products upon expiration. These employees also rotate blood products at customer facilities and monitor temperatures in storage units. Hospital Service Technician Is may also perform C-runs or serve as couriers or delivery personnel. They work with the Employer's collections staff to facilitate the collection of blood bags, or to resolve any discrepancies in packing lists. Hospital Services Technician Is may occasionally deliver supplies to blood drives, but otherwise have little involvement with collections. The Employer employs six Hospital Services Technician Is.

**Hospital Services Technician II.** The Employer's sole Hospital Services Technician II performs the same work as the Hospital Service Technician Is, but operates with greater independence. He does not draw blood, and is even less likely to interact with the Employer's collection staff because he visits blood drives less frequently.

**Inventory and Billing Specialist.** The Employer's only Inventory and Billing Specialist is responsible for coordinating the rotation of blood supplies each day. This work involves examining or polling the Employer's customers regarding their blood product inventory, communicating with the customers regarding shipments, and resolving billing issues. The Inventory and Billing Specialist does not collect or handle blood.

**Hospital Services Courier.** The Hospital Service Couriers are "drop off and pick up" drivers. They also transfer blood products between customers to avoid product loss due to expiration. They spend around 60 percent of their time on the road, and are required to complete a defensive driving course. They do not register donors or draw blood. The record indicates that some Hospital Services Couriers have become Hospital Service Technician Is. The Employer employs 12 Hospital Services Couriers.



**Per Diem Driver.** Per diem drivers perform the same work as the Hospital Services Couriers, but work only on an on-call basis. The Per Diem Drivers are also required to take a defensive driving course. The Employer has seven Per Diem Drivers.<sup>5</sup>

#### **4. General Services Department**

**General Services Assistant.** The General Services Assistants' primary function is to receive and distribute supplies. In doing so, they must ensure that any temperature-sensitive supplies are maintained in a temperature-controlled area. The supplies are ordered by the Employer's different department managers, through the Western Regional Office. Additionally, General Services Assistants perform minor repair work such as changing light bulbs and adjusting the height of a desk. Requests for such work are e-mailed from the various departments to General Services Manager Galaz, who assigns the work to a General Services Assistant. The record does not reveal any instance in which a General Services Assistant performed repairs on a mobile unit in the field. The Phoenix-based General Services Assistants must be certified to operate a forklift. The Employer employs three General Services Assistants

**Procurement Specialist.** The Employer's only Procurement Specialist serves as the liaison between the Employer and the Western Regional Office with regard to supplies. His office is a cubicle in the Tucson warehouse, and he travels daily to the Tucson fixed sites to take inventory of their supplies and restock them as needed.

#### **5. Compliance Department**

**Compliance Specialist I.** Compliance Specialist Is oversee records retention. In particular, they prepare documents for archiving and ensure that all electronic blood donor records are scanned and transmitted to the Western Regional Office. They are also involved in responding to government records audits, which have stringent time targets for compliance. The record establishes that Compliance Specialist Is are not trained in drawing blood, nor do they go on blood drives or handle blood. The Employer employs two Compliance Specialist Is.

**Compliance Specialist II.** In addition to the tasks performed by Compliance Specialist Is, Compliance Specialist IIs record information concerning donors' and recipients' adverse reactions and report that information to the Western Regional Office. Additionally, Compliance Specialist IIs may serve as leads for short periods of time. The Employer employs two Compliance Specialist IIs.

#### **6. Laboratory Department**

**Assistant I.** Assistant I is the entry level laboratory position. Assistant Is are trained in various manufacturing processes and the triage of blood products. The record reveals that there are no employees currently holding this job classification.

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<sup>5</sup> The Employer in its post-hearing brief does not seek to include the Per Diem Drivers in its proposed wall-to-wall unit.

**Assistant II.** Assistant IIs perform the same work as Assistant Is, and are also trained in blood irradiation and labeling processes. Assistant IIs perform triage and manufacture blood products to completion. The Employer employs four Assistant IIs.

**Assistant III.** Assistant IIIs perform the same work as Assistant IIs, and are the lead employees responsible for overseeing the work of Assistant Is and IIs.

**Reference Laboratory Technologists.** Reference Laboratory Technologists are responsible for testing blood samples for antigens and antibodies in patients as well as batch release processes including labeling and quality control. These employees, who are all promoted from the general pool of laboratory employees after at least one year of experience, must have a medical technology degree or equivalent science field education. They work in the laboratory at the Cherry facility, adjacent to the Hospital Services Department. The Laboratory and Hospital Services Departments work closely together in connection with the transfer, storage, and quarantine of blood products. The Employer employs five Reference Laboratory Technologists.

**Reference Laboratory Technologist II.** Reference Laboratory Technologist IIs perform quality control testing on all manufactured products including micro bacteria testing on apheresis products. They are responsible for reconciling quarantined blood products at the time of batch release and for various quality control functions. The record is unclear as to how many employees are employed in this classification.

### **C. An Overview of the Collections Process**

As noted above, the Employer collects blood at either a fixed or remote site from volunteer donors. In the case of a remote site collection, the process begins when an MUA I or II arrives at one of the Employer's operations centers to prepare and stock the blood drive vehicle. About one and one-half hours later, the rest of the collection team arrives and the MUA transports them to the remote site. Once at the remote site, the entire staff sets up for the blood drive.

The blood collection process is the same at fixed and remote sites. Donors are greeted when they first arrive by a Nursing Assistant, Receptionist, or volunteer. Donors then see a collections employee, usually a Donor Services Technician II or Donor Services Technician I, who takes an electronic history, administers a brief physical, and asks a series of pre-screening questions which may disqualify the donor from donating blood. At this point, the collections employee takes a blood sample, which is processed in a Hemostat II, which further determines the ability of a person to give blood. If the donor is acceptable, he or she is taken to the "issue area," where the donor is given a blood bag with attached label. From there the donor goes to the donor area, where the blood bag is checked, along with the donor's date of birth and social security number. The donor is then given information about the possible side effects of donating blood. The donor's arm is then cleaned, his or her vein is palpitated, and approximately one pint of blood is drawn. This part of the process takes about five to eight minutes. After the blood is drawn, the donor goes to the canteen area for recovery, and the

donated blood is sealed and packed. At the end of a mobile drive, an MUA takes the blood to the laboratory. At fixed sites, this task is usually performed by a Hospital Services Courier.

All employees involved in drawing and collecting whole blood are normally directly supervised by a team lead or a team supervisor who, in turn, report to assistant managers and managers.

#### **D. Wages, Benefits, Scheduling, and Interchange**

With the exception of the Donor Recruiters and Volunteer Coordinators, all of the Employer's non-supervisory employees are paid on an hourly basis. All employees receive the same fringe benefits, including health insurance and paid time off, the amount of which is based on length of service with the Employer. The Employer also periodically adjusts its employees' wage rates, based on their individual performance.

Employees who work on blood drives at mobile sites – Donor Services Technician IIs, Donor Services Specialist Is, MUA Is and IIs, and Nursing Assistants – receive a personal work schedule each week. This schedule provides the following information: the name and location of each blood drive to which the employee is assigned for that week; the times the employee is expected to leave for, and return from, each blood drive; the total number of hours the employee is expected to work each day; whether the employee is scheduled for a meal break; directions to each mobile blood drive location; and the staffing role the employee will fill during each blood drive. The hours to be worked vary with each blood drive. As a general rule, these employees are scheduled to work only one blood drive per day. As noted above, Donor Services employees may also work at fixed sites. The record is not clear as to how employees who work at fixed sites are scheduled.

In contrast, most of the Employer's other employees have fixed work schedules. The Donor Recruitment Representatives, Volunteer Coordinator, and Customer Service Representatives, and the Tucson-based General Services Assistants work a regular 8:00 a.m. to 5:00 p.m. schedule. Donor Recruitment Representatives also often work evenings and weekends. Tele-recruiters work either a day shift, from 8:00 a.m. to 5:00 p.m., or a night shift, from 12:00 p.m. to 8:30 p.m. The Scheduler responsible for the Donor Services collections staff works approximately 20 hours per week, although he is on call 24-hours a day, seven days a week, while the Scheduler responsible for mobile operations works from 8:00 a.m. to 5:00 p.m. The part-time Receptionists provide coverage from 7:00 a.m. to 6:00 p.m. The Hospital Services department operates 24 hours a day, seven days a week, and is always staffed by employees working 8 hour shifts. Compliance Specialists work various fixed shifts, with start times ranging from 7:00 a.m. to 6:00 p.m. The Laboratory Department staff work staggered 8 or 10 hour shifts to provide coverage at all times between 5:00 a.m. to 11:30 p.m.

All Donor Services employees have access to the Cherry facility break room, along with the other staff who reside at Cherry. Generally, the Employer's hourly Tucson area employees clock in at one of two time clocks located at the Cherry facility. If a Donor

Services employee is scheduled to work at a different site, he or she may opt to report directly to that site and clock in remotely.

Finally, the record reveals minimal interchange between the classifications sought by the Petitioner and those which the Employer would include. More specifically, it appears that, six to eight months before the hearing, an MUA transferred to a position in the General Services Department. While some Donor Services Technician IIs, Donor Services Specialists or Nursing Assistants may have been promoted to supervisory positions, there is no other evidence in the record that these employees have transferred to other departments, either permanently or temporarily, or vice versa.

#### **E. Disposition of Record Stipulations**

The parties stipulated, and I find, that all of the Employer's employees who hold the title of lead person are supervisors within the meaning of Section 2(11) of the Act because they have the authority to discipline other employees and direct and assign work to other employees. Accordingly, I shall exclude lead persons from any unit found appropriate because they are statutory supervisors.

At the hearing, the parties also stipulated that the trainers should be excluded from the unit found appropriate because they possess certain indicia of managerial status. In support of this stipulation, the parties agreed that trainers assign work and made effective decisions regarding discharge of employees. Based on these facts, I find the trainers to be supervisors within the meaning of Section 2(11) of the Act and I shall exclude them from any unit found appropriate on that basis.

The parties also stipulated, and I find, that the Employer's Therapeutic Apheresis RN/LPNs are professional employees within the meaning of the Act. The record reflects that Therapeutic Apheresis RN/LPNs are required to possess an advanced degree and to be licensed by the State of Arizona. The record also reflects that they regularly perform advanced functions commensurate with their advanced training and skills, specifically, therapeutic apheresis, which is only performed at a hospital pursuant to the prescription of a physician.

#### **F. Legal Analysis and Determination**

The Employer contends that the petitioned-for unit is not appropriate, and that only a wall-to-wall unit is appropriate. Although employees in such a unit may share some terms and conditions of employment and may constitute an appropriate unit, the Board has substantial discretion in determining what constitutes an appropriate bargaining unit. In the health care industry, as in any other, unions are not required to organize in the most comprehensive unit available, but need only select an appropriate unit. *Faribault Clinic*, 308 NLRB 131, 133 (1992) (citing *Newington Children's Hospital*, 217 NLRB 793 (1975)).

The Board elucidated its policy for determining appropriate units in *The Boeing Company*, 337 NLRB 152 (2001):

The Board's procedure for determining an appropriate unit is to examine first the petitioned-for unit. If that unit is appropriate, then the inquiry in the appropriate unit ends. If the petitioned-for unit is not appropriate, the Board may examine the alternative units suggested by the parties, but it also has the discretion to select an appropriate unit that is different from the alternative proposals of the parties. *Overnite Transportation Co.*, 331 NLRB 662, 663 (2000); *NLRB v. Lake County Assn for the Retarded*, 128 F.3d 1181, 1185 fn.2 (7<sup>th</sup> Cir. 1997).

In evaluating the appropriateness of a unit, the Board examines whether the employees in the proposed unit share a community of interest. The community of interest analysis focuses on the following factors: (1) functional integration; (2) frequency of contact with other employees; (3) interchange with other employees; (4) degree of skill and common functions; (5) commonality of wages, hours and other working conditions; and (6) shared supervision. *Publix Supermarkets, Inc.*, 343 NLRB No. 109 at 3 (2004).

The Employer argues that in making its analysis, the Board should apply the disparity of interests test from *Syracuse Regional Blood Center*, 302 NLRB 72 (1991), because the Employer is a health care institution. However, in *Park Manor Care Center*, 305 NLRB 872 (1991), a case decided after *Syracuse*, the Board set forth the "empirical community of interest test" for nonacute health care facilities in *Allen Health Care Services*, 332 NLRB 1308, 1309 fn.4 (2000). Under the *Park Manor* test, the Board considers community of interest factors, as well as those factors considered relevant by the Board in rulemaking proceedings on collective-bargaining units in the health care industry. The Board further considers prior cases involving either the type of unit sought or the type of health care facility in dispute. *CGE Caresystems, Inc.*, 328 NLRB 748 (1999).

Because the Board did not consider blood banks in its rulemaking procedures, (see *Collective Bargaining Units in the Health Care Industry*, 284 NLRB 1528 (1988) and 84 NLRB 1579 (1989)), it is vital to consider prior Board cases involving blood banks in determining appropriate units. In such cases, the Board has consistently found less than wall-to-wall units appropriate for collective bargaining. In *Sacramento Medical Foundation Blood Bank*, 220 NLRB 904 (1975), and *Greene County Chapter American Red Cross*, 221 NLRB 776 (1975), both involving blood banks, the Board rejected employer arguments seeking broad units and instead found narrow units justified by community of interest factors. In keeping with this analytical framework, the Board has found appropriated units consisting solely of collection employees in the blood bank industry. *Midwest Region Blood Services*, 324 NLRB 166 (1997). See also *Faribault Clinic*, supra. The factors applied by the Board in determining the appropriateness of such units, as related to the instant case, are considered below.

## **1. The Petitioned-For Nonprofessional Employees**

The Donor Services Technician IIs and Donor Services Specialist Is share the same type of supervision in that they, as all employees involved in collecting whole blood, are normally assigned to the supervision of a team lead or a team supervisor. There is also a high degree of contact and functional integration among them to the extent that they are all involved in the processing of donors and collection of blood and related products. Moreover, both classifications are Red Cross trained phlebotomists, have similar skills, and utilize the same tools. Indeed, the record does not reflect any practical difference in the duties performed by the Donor Services Technician IIs and the Donor Services Specialist Is. The only difference between the two classifications appears to be that employees in the latter group possess a registered nurse's license, a license which is not a requirement to perform the duties of the position.

The MUA Is, MUA IIs, and the Nursing Assistants are designated to work with the Donor Services Technician IIs and Donor Donor Services Specialist Is as a team at mobile and fixed site blood drives. As with Donor Services Technician IIs and Donor Services Specialist Is, they typically receive a written schedule which details the specific role they are to fill on that drive. Their sole function is to directly support the blood collection operation by, among other things, preparing donors and the supplies needed for drawing blood, performing take downs, removing the needle from donors' arms, performing phlebotomies, and packing and sealing the drawn blood. The MUA Is, MUA IIs, and Nursing Assistants work side-by-side with the Donor Services Technician IIs and Donor Services Specialist Is when performing these tasks. During a blood drive, they are under the same lead person or supervisor as the Donor Services Technicians and Donor Services Specialists.

The Apheresis RN/LPNs in the Apheresis Department, like the Donor Services Technician IIs and Donor Services Specialist Is, are phlebotomists and are viewed by the Employer as part of the collections staff. Their job is essentially the same as Donor Services Technician IIs and Donor Services Technician Is, namely, to remove blood or blood products from donors or patients. These positions are directly supported by the Apheresis Donor Specialists, who operate the apheresis machines and the Collections Assistants, who prepare the bags of blood for shipment to the laboratory. It appears from the record that the apheresis operations are performed in close physical proximity to other blood collection operations at the Employer's fixed donation sites in Tucson.

During the hearing, the parties stipulated that the EBDR Specialists should be included in the unit because they share a community of interest with the employees involved with the collecting of blood. I find that the record, however, does not support this stipulation. Although the EBDR Specialists are included in the Donor Services Department, they do not perform any actual blood collection work, nor are they trained to do so. On the contrary, the EBDR Specialists have an entirely distinct skill set related to the installation and maintenance of computers and computer software. They are seldom present during blood drives, utilize different tools to perform their job, and work primarily out of the Employer's operational facilities. The interaction between the EBDR Specialists and other collections employees is

merely incidental, limited to cases where they are called upon to troubleshoot a computer problem at a blood-collection site.

## **2. Employees Not Directly Involved in Drawing Blood from Donors and Who Are Not Sought by the Petitioner**

**Donor Recruitment Representatives.** Although Donor Recruitment Representatives' work is functionally integrated with the collections process in the sense that donors must be recruited so that the collections employees can perform their work, their interests are nonetheless distinct from employees in the petitioned-for unit. Donor Recruitment Representatives do not perform any blood collection work, nor are they trained to do so. While they may be present at blood drives, their role is limited to public relations and crowd control. Indeed, unlike other employees responsible for collecting blood, Donor Recruitment Representatives decide for themselves whether to attend blood drives and may leave before the conclusion of the drive. Moreover, Donor Recruitment Representatives typically work a fixed schedule, and often work on weekends. They have an entirely different skill set than employees involved blood collection and are required to hold a marketing degree. Unlike most other employees, Donor Recruitment Representatives are paid a fixed salary. Finally, there is no evidence of any interchange between Donor Recruitment Representatives and employees in the petitioned-for unit.

**Other Donor Services Department and Apheresis Classifications.** The Employer also seeks to include the Volunteer Coordinator, Customer Service Representatives, Schedulers/Receptionists, and Tele-recruiters in the petitioned-for unit. While the work of all of these employees is functionally integrated with the process of physically drawing blood from donors in the sense that blood donors must be recruited and scheduled, and must be greeted the day their blood is drawn, their interests are also distinct from the employees in the petitioned-for unit. All of these classifications are essentially administrative in nature. These employees generally work out of the Employer's operational facilities, and their primary tools are telephones and computers. Employees in these classifications do not perform any blood drawing or collection work, nor are they trained to do so. They seldom visit blood collection sites, and their interaction with employees who physically draw blood is minimal. Finally, there is scant evidence of interchange between these classifications and employees in the petitioned-for unit.

**Hospital Services, General Services, Compliance, and Laboratory Employees.** As noted above, none of the employees in these departments is involved in the actual collection of blood from donors. On the contrary, the primary function of Hospital Services employees is to maintain the blood inventory of hospitals and clinics and, therefore, those employees interact primarily with hospitals and clinics rather than donors. Similarly, General Service employees receive and distribute supplies used by all of the Employer's departments and, therefore, have no contact with donors. The Compliance and Laboratory employees likewise have no contact with donors where their primary functions are, respectively, to maintain records and process blood after it is collected. Unlike employees involved in the process of collecting blood from donors, employees in these other departments generally work set schedules and work out of a fixed location, such as the laboratory located at the Employer's

Cherry facility. They also use different tools and equipment to perform their work, and have different backgrounds and training. Further, these employees have distinct lines of supervision, reporting ultimately to different department heads. Indeed, unlike the Donor Services and Apheresis Departments, the General Service, Compliance, and Laboratory Departments ultimately report to positions in the Western Regional Office instead of Mowry.

In urging that I find a broader unit, the Employer relies on *J.C. Penney Co., Inc.*, 328 NLRB 766 (1989). In that case, the Board included that telemarketers over the petitioner's objection because the telemarketers shared common wage scales, benefits, and personnel policies; worked in the same physical location; attended common meetings as other included employees; had similar skills to other included employees; performed similar functions to unit employees in some of the included departments; and there existed evidence of substantial contact and interchange between the telemarketers and employees in the other included departments. *J.C. Penney* is plainly distinguishable from this case. While the Donor Recruitment Representatives, Volunteer Coordinator, Customer Service Representatives, Schedulers, and Tele-recruiters are all part of the Donor Services Department, there is no evidence of any significant interchange between these classifications and the classifications in the petitioned-for unit. Further, there is no evidence that the two groups perform any common functions. On the contrary, the record does not reflect that the classifications the Employer seeks to include are qualified to draw blood.

Based on the foregoing showing of a strong community of interest among classifications who have, among other duties, the direct collection of blood as a position responsibility, I find that a unit consisting of the Donor Services Technician IIs, Donor Services Specialist Is, MUA Is, MUA IIs, Nursing Assistants, Apheresis RN/LPNs, Apheresis Donor Specialists, and Collections Assistants, as sought by the Petitioner, are an appropriate unit for collective bargaining. However, as noted above, I will exclude the EBDR Specialists since they do not have a sufficient community of interest with employees directly involved in the collection of blood. I will also exclude the Employer's Donor Recruitment Representatives, Customer Service Representatives, Tele-recruiters, Appointment Scheduler/Receptionists, Volunteer Coordinator, Hospital Services Technician I and IIs, Hospital Services Couriers, Inventory and Billing Specialist, General Services Assistants, Procurement Specialist, Compliance Specialist I and IIs, Reference Laboratory Technologists and Technologist IIs, and Technical Assistant I, II, and IIIs, because they also do not have a sufficient community of interest with employees directly involved in the collection of blood to mandate their inclusion in the petitioned-for unit.

### **3. The Petitioned-For Professional Employees**

The Petitioner seeks a unit of professional employees consisting of Therapeutic Apheresis RN/LPNs. As previously noted, the parties have stipulated, and the record establishes, that the Therapeutic Apheresis RN/LPNs are professional employees within the meaning of the Act because they are required to hold an advanced degree, must be licensed by the State of Arizona, and they regularly exercise their advanced skills and training in the performance of their duties. See *Centralia Convalescent Center*, 295 NLRB 42 (1989); *Mercy Hospitals of Sacramento*, 217 NLRB 765 (1975). The record also establishes that, like



the petitioned-for nonprofessional employees, the Therapeutic Apheresis RN/LPNs are trained phlebotomists directly involved in the processing and collection of blood and related products from donors and patients.

## **G. Conclusion**

On the basis of the foregoing, including the stipulations and the record as a whole, I find that the petitioned-for nonprofessional unit, with the exception of EBDR Specialists, is an appropriate unit for the purposes of collective bargaining. I further find that the Therapeutic Apheresis RN/LPNs constitute a separate, appropriate professional unit. However, since the Therapeutic Apheresis RN/LPNs share a sufficient community of interest with the petitioned-for nonprofessional employees, they will also be given the option to vote to be included in an overall unit which includes the nonprofessional employees, as well as the option of voting to be represented by the Petitioner in a separate professional unit. See *Sonotone Corp.*, 90 NLRB 1236 (1950). Accordingly, I shall direct separate elections in the following voting groups

### **VOTING GROUP “A”**

All full-time and regular part-time Donor Services Collections Technician IIs, Donor Services Specialist Is, Mobile Unit Assistant Is, Mobile Unit Assistant IIs, Nursing Assistants, Apheresis RNs/LPNs, Apheresis Donor Specialists, and Collections Assistants employed by the Employer in Tucson, Phoenix, and Scottsdale, Arizona, but excluding all other employees, Electronic Blood Record Specialists, Donor Recruitment Representatives, Customer Service Representatives, Tele-recruiters, Appointment Scheduler/Receptionists, Volunteer Coordinators, Hospital Services Technician I and IIs, Hospital Services Couriers, Inventory and Billing Specialists, General Services Assistants, Procurement Specialists, Compliance Specialist I and IIs, Reference Laboratory Technologists and Technologist IIs, Technical Assistant I, II, and IIIs, trainers, guards, and supervisors as defined in the Act.

### **VOTING GROUP “B”**

All full-time and regular part-time Therapeutic Apheresis RNs/LPNs, employed by the Employer in Tucson, Phoenix, and Scottsdale, Arizona, excluding all other employees, guards and supervisors as defined in the Act.

The Employees in nonprofessional Voting Group A will be asked if they wish to be represented by the Petitioner. The employees in professional Voting Group B will be asked the following two questions on their ballots:

1. Do you desire to be included with nonprofessional employees in a single unit for purposes of collective bargaining?
2. Do you desire to be represented for purposes of collective bargaining by the General Teamsters (Excluding Mailers), State of Arizona, Local Union No. 104, an Affiliate of the International Brotherhood of Teamsters?

If a majority of the employees in Voting Group B vote "yes" to the first question, indicating a desire to be included in a unit with nonprofessional employees, they shall be so included. Their vote on the second question will then be counted with the votes of the nonprofessional employees in Voting Group A to determine whether employees in the overall unit desire to be represented by the Petitioner. If, on the other hand, a majority of the professional employees in Voting Group B do not vote for inclusion, they will not be included with the nonprofessional employees. Their votes on the second question will then be separately counted to determine whether or not they wish to be represented by the Petitioner in a separate unit.

Thus, the unit determination is based, in part, upon the results of the election among the professional employees. However, I make the following findings in regard to the appropriate unit:

If a majority of professional employees vote for inclusion with nonprofessional employees, I find the following group of employees will constitute an appropriate unit for purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time Donor Services Collections Technician IIs, Donor Services Specialist Is, Mobile Unit Assistant Is, Mobile Unit Assistant IIs, Nursing Assistants, Apheresis RNs/LPNs, Apheresis Donor Specialists, Collections Assistants, and Therapeutic Apheresis RNs/LPNs, employed by the Employer in Tucson, Phoenix, and Scottsdale, Arizona, but excluding all other employees, Electronic Blood Record Specialists, Donor Recruitment Representatives, Customer Service Representatives, Tele-recruiters, Appointment Scheduler/Receptionists, Volunteer Coordinators, Hospital Services Technician I and IIs, Hospital Services Couriers, Inventory and Billing Specialists, General Services Assistants, Procurement Specialists, Compliance Specialist I and IIs, Reference Laboratory Technologists and Technologist IIs, Technical Assistant I, II, and IIIs, trainers, guards, and supervisors as defined in the Act.

If a majority of professional employees do not vote for inclusion in the unit with nonprofessional employees, I find that the following two groups of employees will constitute separate units appropriate for purposes of collective bargaining within the meaning of Section 9(b) of the Act:

#### UNIT A

All full-time and regular part-time Donor Services Collections Technician IIs, Donor Services Specialist Is, Mobile Unit Assistant Is, Mobile Unit Assistant IIs, Nursing Assistants, Apheresis RNs/LPNs, Apheresis Donor Specialists, and Collections Assistants employed by the Employer in Tucson, Phoenix, and Scottsdale, Arizona, but excluding all other employees, Electronic Blood Record Specialists, Donor Recruitment Representatives, Customer Service Representatives, Tele-recruiters, Appointment Scheduler/Receptionists, Volunteer Coordinators, Hospital Services Technician I and IIs, Hospital Services Couriers, Inventory and Billing Specialists, General Services Assistants, Procurement Specialists, Compliance Specialist I and IIs,

Reference Laboratory Technologists and Technologist IIs, Technical Assistant I, II, and IIIs, trainers, guards, and supervisors as defined in the Act.

#### UNIT B

All full-time and regular part-time Therapeutic Apheresis RNs/LPNs, employed by the Employer in Tucson, Phoenix, and Scottsdale, Arizona, excluding all other employees, guards and supervisors as defined in the Act.

There are approximately 88 nonprofessional employees and four professional employees in Voting Groups A and B, respectively.

#### **DIRECTION OF ELECTION**

I direct that an election by secret ballot be conducted in the above voting groups at a time and place that will be set forth in the notice of election that will issue soon, subject to the Board's Rules and Regulations. The employees who are eligible to vote are those in the voting groups who are employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Also eligible are those in military services of the United States Government, but only if they appear in person at the polls. Employees in the voting groups are ineligible to vote if they have quit or been discharged for cause since the designated payroll period; if they engaged in a strike and have been discharged for cause since the strike began and have not been rehired or reinstated before the election date; and, if they have engaged in an economic strike which began more than 12 months before the election date and who have been permanently replaced. All eligible employees shall vote whether or not they desire to be represented for collective-bargaining purposes by:

#### **GENERAL TEAMSTERS (EXCLUDING MAILERS), STATE OF ARIZONA, LOCAL UNION NO. 104, AN AFFILIATE OF THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS**

#### **LIST OF VOTERS**

In order to ensure that all eligible voters have the opportunity to be informed of the issues before they vote, all parties in the election should have access to a list of voters and their addresses that may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969). Accordingly, I am directing that within seven (7) days of the date of this Decision, the Employer file with the undersigned, two (2) copies of election eligibility lists containing the full names and addresses of all eligible voters in the voting groups. The undersigned will make these lists available to all parties to the election. *North Macon Health Care Facility*,

315 NLRB 359 (1994). In order to be timely filed, the undersigned must receive the lists at the NLRB Regional Office, 2600 North Central Avenue, Suite 1800, Phoenix, Arizona, 85004-3099, on or before July 14, 2006. No extension of time to file this list shall be granted except in extraordinary circumstances. The filing of a request for review shall not excuse the requirements to furnish this list.

### **RIGHT TO REQUEST REVIEW**

Under the provision of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, DC 20570. The Board in Washington must receive this request by July 21, 2006. A copy of the request for review should also be served on the undersigned.

Dated at Phoenix, Arizona, this 7<sup>th</sup> day of July 2006.

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Cornele A. Overstreet, Regional Director  
National Labor Relations Board, Region 28